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TN REGULATORY AUTHORITY
October 15, 2002 DOCKET ROOM

VIA FIRST CLASS MAIL

Deborah Taylor Tate
Director
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

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TN REGULATORY AUTHORITY
DEBI TATE

Re: BellSouth's Pending Disruption of DSL Market in Tennessee

Dear Director Tate:

In a letter filed with the Georgia Public Service Commission on July 1, 2002, BellSouth set out its position regarding the status of line shared loops following the decision of the United States Court of Appeals for the D.C. Circuit in United States Telecommunications Association v. F.C.C., 295 F.3d 1326 (D.C. Cir. 2002). A copy of this letter is enclosed. In it, BellSouth informs the Georgia Commission that it will cease offering line shared loops to CLECs at Commission-ordered rates, terms and conditions as of January 1, 2003. BellSouth's position on this issue is unsatisfactory on several levels, and you should be aware that this policy may subject Tennessee consumers to a destructive and entirely preventable disruption in the Tennessee DSL market.

First, BellSouth's flat statement that it will cease offering line shared loops in accordance with the FCC's *Line Sharing Order* represents the most aggressively anti-competitive stance taken by any RBOC to date: SBC has already committed publicly to maintaining the line sharing status quo until the completion of the FCC's Triennial Review (see enclosed press release), and Verizon must do the same until mid-2003 based on conditions placed upon it in conjunction with its merger with GTE. Consequently, it may well be that the residents of BellSouth's region are the only consumers nationwide who are subjected to the uncertainty that will arise as UNE rates are unilaterally abandoned while the results of the Triennial Review are still pending.

Second, BellSouth's plan may have the effect of completely disrupting the DSL market in Tennessee for no discernable reason other than the destruction of competition. This is so because the FCC is likely to complete the Triennial Review during the first quarter of 2003, and it is in this proceeding that it will deal with the issues remanded by the D.C. Circuit in the U.S.T.A. case

Director Deborah Taylor Tate

October 15, 2002

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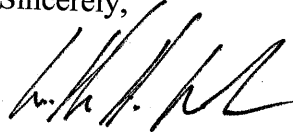
referenced above. In other words, if BellSouth carries out its plan, there is a strong possibility that it will cease providing line shared loops only to have the *Line Sharing Order* reaffirmed as part of the Triennial Review a mere six weeks later. SBC has committed to maintaining the status quo until the FCC announces whether or not it is going to order an end to the line sharing UNE. Why won't BellSouth do the same?

Finally, BellSouth's letter seems to imply that the D.C. Circuit's decision has already vacated the *Line Sharing Order*. This was not true when the letter was written, and it is not true today. The D.C. Circuit recently issued a stay in the case, and, accordingly, the court's order will not become effective until January 2, 2003. Further, the FCC may seek to have the decision reviewed by the United States Supreme Court, a step that could stay the D.C. Circuit's order indefinitely. In short, the *Line Sharing Order* remains in place, and it is uncertain when, if ever, the D.C. Circuit's mandate may issue.

Given what is almost certain to be a gap between the completion of the Triennial Review and the deadline that BellSouth has set for abandoning Commission-ordered rates for line shared loops, BellSouth's letter should provide the Commission with no reassurance at all that the DSL market in Tennessee is not going to be seriously and needlessly disrupted by its anti-competitive actions. We respectfully urge the Commission to take whatever steps are necessary to ensure that the line sharing status quo is maintained until the completion of the Triennial Review. If the FCC decides in that proceeding to eliminate the line sharing UNE, some disruption for Tennessee consumers will be unavoidable. Until that time, however—now less than half a year away—Tennessee consumers should be protected from actions that might destroy competition in the DSL market.

Should you have any questions or desire any further information about any subjects discussed above, please do not hesitate to contact me.

Sincerely,



William H. Weber

WHW/jb
Enclosure

cc: Guy M. Hicks
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July 1, 2002

DELIVERED BY HAND

Mr. Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, Georgia 30334-5701

Re: *Investigation of BellSouth Telecommunications, Inc.'s Provision of Unbundled Network Elements for xDSL Service Providers*; Docket No. 11900-U

Dear Mr. McAlister:

At the Commission's Communications Committee meeting on June 13, 2002, BellSouth Telecommunications, Inc. was asked for its position on line sharing in light of the recent decision of the United States Court of Appeals for the D.C. Circuit in *FCC v. Bell Atlantic Telephone Companies, et al.*, Case No. 00-1012 (D.C. Cir. May 24, 2002) which vacated and remanded the FCC's Line Sharing Order. BellSouth's position is that it will continue to offer line sharing through the end of 2002 at existing rates, terms and conditions. Beginning January 1, 2003, BellSouth will offer line sharing at market rates under negotiated terms and conditions.

Please file the enclosed original and eighteen (18) copies of this correspondence and return the three (3) extra copies stamped "filed" in the enclosed self-addressed and stamped envelopes.

Thank you for your assistance in this regard.

Yours very truly,


Bennett L. Ross

BLR:nvd
Enclosures

cc: Mr. Leon Bowles
Parties of Record